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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,291	12/18/2001	Mogens Rud	PATRADE	1738
7590	02/10/2004		EXAMINER	
James C Wray 1493 Chain Bridge Road Suite 300 McLean, VA 22101			YEUNG, GEORGE CHAN PUI	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/018,291

Applicant(s)

RUD, MOGENS

eb

Examiner

George C Yeung

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 ~~is~~ are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 ~~is~~ are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 6) ☐ Other:

## **DETAILED ACTION**

### **Abstract Requirement**

Applicant mentioned in the preliminary amendment filed December 18, 2001 that an abstract in compliance with the rules is provided therewith (see page 6, the last two lines). However, no copy of the abstract can be found attached to this amendment. Applicant is requested to submit a copy of the abstract in his next response in compliance with the rules.

### ***Claim Objections***

Claims 1-10 are objected to because of the following informalities:

1. The word "where" recited in claim 1, line 3, should be changed to -- comprising the steps of: -- in order to conform to the terminology used in the U.S. claim practice. The same word recited in claim 1, line 6, is superfluous and it should be deleted.
2. The phrase "characterised in that" recited in claim 5, line 3, should be changed to -- wherein --.
3. The word "where" recited in claim 6, line 4, and the phrase "characterised in that" recited in claim 6, line 11, should be changed to -- wherein -- in order to conform to the terminology used in the U.S. claim practice.
4. The phrase "characterised in that it comprises" recited in claim 10, line 3, should be changed to -- wherein --.

***Claim rejections – 35 USC § 112***

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the following reasons:

1. The limitations "are moved", "is established" and "is regulated independently" recited in claim 1 are improper since they fail to impart positive manipulative steps to the method claim. The change of these limitations to -- moving --, -- establishing --, and -- independently regulating -- would obviate this rejection.
2. There is no antecedent basis for "the outermost end part", "the remaining part" and "the confectionery run" as recited in claim 1, lines 4-6.
3. There is no antecedent basis for "the nozzle outlet" as recited in claim 1, line 9.
4. There is also no antecedent basis for "the nozzle outlet" as recited in claim 6, line 4.
5. The words "and intended" recited in claim 10, lines 1-2, are indefinite. The change of these words to -- further comprises means -- would overcome this rejection.

***Allowable Subject Matter***

Claims 1-10 are free of the prior art. Claims 1-10 would be allowable if amended to overcome the objections and the rejections under 35 U.S.C. 112 set forth in this Office action.

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***Prior Art Citation***

The Greenhouse et al patent is cited to show a method for making banana confection products. The Meisner patent is cited to show a multicolor confection extrusion system.

***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance: The prior art of record does not show or suggest the combination of method steps set forth in claim 1 and the combination of structural elements set forth in claim 6 for making a shaped confectionery product, especially the claimed use of drive means for displacing the shaping means with a speed independent of the speed of extrusion.

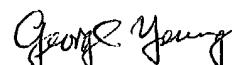
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Yeung whose telephone number is (571) 272-1412. The examiner can normally be reached on Monday-Friday from 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0987.

G. Yeung/af  
January 30, 2004



**GEORGE C. YEUNG  
PRIMARY EXAMINER**